

## **Remarks**

Claims 1-12 and 15-19 were pending in this application. Claims 1 and 15 have been amended, and no claims have been added or canceled. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

### **Rejection of Claims 1-8, 10, and 15-19**

#### **Under 35 U.S.C. § 103(a) Over Savitzky and Anderson**

Claims 1-8, 10, and 15-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,771,271 issued to Savitzky et al. ("Savitzky") in view of U.S. Patent No. 6,571,246 issued to Anderson et al. ("Anderson"). In response, Applicants have amended independent claim 1 to recite "the at least one software agent automatically and repeatedly comparing programmed, user-specified criteria with the available digital image metadata to evaluate and select a subset of the digital images provided by the image server for distribution to the user," support for which can be found, for example, at p. 7, lines 11-31 of the specification. Claim 15 has been similarly amended.

The Examiner admits that Savitsky does not disclose a software agent for automatically comparing programmed user-specified criteria with the digital image metadata, but asserts that Anderson discloses this feature. Applicants respectfully disagree with the Examiner's characterization of Anderson, but have amended claims 1 and 15 to clarify that Applicants' software agent automatically and *repeatedly* compares the user-specified criteria with the available digital image metadata to evaluate and select a subset of the digital images provided by the image server for distribution to the user. As such, Applicants' invention provides a "standing order" for images with certain criteria, such that whenever images with metadata matching the user-specified criteria are created, they are automatically distributed to the user.

In contrast, Anderson discloses a system and method wherein a business employee determines that data needs to be collected (i.e., a photograph of a property for sale), a process application 304 directs the collection of this data by an image capture device 112,

the captured image is tagged, and then the image is matched to data in a database 106 according to the tag information (i.e., each property photograph is matched with textual data for that property) (*see* Anderson, col. 4, line 35 - col. 5, line 39). Therefore, in Anderson's system and method, once the property photograph is matched with the corresponding property text the request is satisfied and there is no need to maintain the request criteria. As such, Anderson teaches away from Applicants' invention, since Applicants disclose and claim repeatedly comparing the user-specified criteria with available digital image metadata such that appropriate images can be identified regardless of the point in time at which they are made available. Anderson does not recognize the problem solved by Applicants' claimed invention, namely the ability to automatically obtain images satisfying user-specified criteria whenever the images become available without having to re-request the desired image type each time.

Therefore, claims 1 and 15 are believed to be patentably distinguishable over the combination of Savitzky and Anderson. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of these claims, along with their corresponding dependent claims, under 35 U.S.C. § 103(a).

**Rejection of Claims 9 and 11-12**

**Under 35 U.S.C. § 103(a) Over Savitzky, Anderson, and Shiota**

Claims 9 and 11-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Savitzky in view of Anderson and U.S. Patent No. 6,337,712 issued to Shiota. Claims 9 and 11-12 depend from and contain all the limitations of independent claim 1 which, for the reasons stated above, is believed to be patentably distinguishable over Savitzky and Anderson, either alone or in further combination with Shiota. Accordingly, reconsideration and withdrawal of the rejection of these claims is also respectfully requested.

Reply to Office Action of February 3, 2004



### Conclusion

In summary, Applicants believe that the claims, as amended, now meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

Respectfully submitted,

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